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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 ROBERT LOUIS TOLBERT, JR.,) CASE NO. ED CV 07-36-GAF (PJW)
11)
12) Petitioner,)
13) ORDER ACCEPTING REPORT AND
14) RECOMMENDATIONS OF UNITED STATES
15) MAGISTRATE JUDGE AND DENYING
16) CERTIFICATE OF APPEALABILITY
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16 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition,
17 the records on file, and the Report and Recommendation of United
18 States Magistrate Judge. No objections to the Report and
19 Recommendation have been filed. The Court accepts the Magistrate
20 Judge's Report and adopts it as its own findings and conclusions.

21 Further, for the reasons stated in the Report and Recommendation,
22 the Court finds that Petitioner has not made a substantial showing of
23 the denial of a constitutional right and, therefore, a certificate of
24 appealability should not issue in this action. See 28 U.S.C.
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1 § 2253(c)(2); Fed. R. App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S.
2 322, 336 (2003).

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4 DATED: February 1, 2010.

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7 GARY A. FEESS
8 UNITED STATES DISTRICT JUDGE
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